

**§ 5.515 Failure of respondent to appear at hearing.**

(a) In any case in which the respondent, after being duly served with the original of the notice of the time and place of the hearing and the charges and specifications, fails to appear at the time and place specified for the hearing, the hearing may be conducted *in absentia*.

(b) The Administrative Law Judge ensures that the record contains the facts concerning the service of the charges, specifications and notice of hearing.

**§ 5.517 Witnesses excluded from hearing room.**

After appearances are entered and prior to proceeding with the hearing, all witnesses are excluded from the hearing room. The Administrative Law Judge may order witnesses to be separated from each other while waiting to testify or admonish them to not discuss the case among themselves or with any other person, with the exception of the investigating officer, the respondent or the respondent's counsel.

**§ 5.519 Rights of respondent.**

(a) The Administrative Law Judge advises the respondent, on the record, of the right to:

- (1) Be represented by professional counsel, or any other person desired;
- (2) Have witnesses and relevant evidence subpoenaed;
- (3) Examine witnesses, cross-examine witnesses, and introduce relevant evidence into the record; and
- (4) Testify or remain silent.

**§ 5.521 Verification of license, certificate or document.**

(a) The Administrative Law Judge shall require the respondent to produce and present at the opening of the hearing, and on each day the hearing is in session thereafter, all valid licenses, certificates, and/or documents issued by the Coast Guard to the respondent. In the event that the respondent alleges that such license, certificate or document has been lost, misplaced, stolen, destroyed, or is otherwise beyond his ability to produce, the respondent shall execute a lost document affidavit (Form CG-4363). The Administrative

Law Judge shall warn the respondent that a willful misstatement of any material item in such affidavit is punishable as a violation of a Federal criminal statute. (See 18 U.S.C. 1001).

(b) When a hearing is continued or delayed, the Administrative Law Judge returns the license, certificate, or document to the respondent: unless a prima facie case has been established that the respondent committed an act or offense which shows that the respondent's service on a vessel would constitute a definite danger to public health, interest or safety at sea.

[CGD82-002, 50 FR 32184, Aug. 9, 1985, as amended by CGD 97-057, 62 FR 51042, Sept. 30, 1997]

**§ 5.523 Motions or objections.**

Any motion or objection shall be heard and disposed of, on the record, by the Administrative Law Judge.

**§ 5.525 Correction or amendment of charges and/or specifications.**

(a) The Administrative Law Judge examines the charges and specifications to determine their correctness as to form and legal sufficiency.

(b) The Administrative Law Judge may, either on the Administrative Law Judge's own motion or motion by either the investigating officer or respondent, amend the charges and specifications to correct harmless errors by deletion or substitution of words or figures as long as a legal charge and specification remains.

(c) When errors of substance are found in charges and specifications, the Administrative Law Judge shall allow that the defective charge or specification be withdrawn without prejudice to the service of a new charge and specification in the matter. The investigating officer may then prepare and serve a new charge and specification.

**§ 5.527 Answer.**

(a) The Administrative Law Judge reads each charge and specification to the respondent and obtains a specific answer to each charge and specification. If the respondent fails to answer a charge or specification, the Administrative Law Judge enters a denial and proceeds with the hearing.